

ARGUMENT

In the office action of April 3, 2003, the Examiner rejected claims 45-49, 56, 58, 61 and 64 under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one of ordinary skill in the art that the inventor, at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner argues that the specification fails to support and describe the now claimed priority data comprising programmed security characteristics related to each of the plurality of transmission systems as stated in claims 45 and 58.

Further, the Examiner:

- 1) rejected claims 45-49, 56, 58, 61 and 64 under 35 U.S.C. §112, second paragraph, arguing that the term “security characteristics” is indefinite;
- 2) disapproved of the proposed drawing correction, namely Figure 2E, arguing that the original disclosure does not support said figure;
- 3) rejected claims 45-49, 56, 58, 61 and 64 under 35 U.S.C. §102(e), arguing that said claims are anticipated by U.S. Patent Number 5,987,334 (Kaku); and
- 4) objected to the amendment to the specification filed on February 19, 2003 under 35 U.S.C. §132 arguing that said amendment constitutes new matter.

In response to the Examiner's arguments, Applicant has amended claims 45 and 58 to 1) remove the complained of language and 2) clarify the structure which Applicant believes distinguishes the invention over the cited reference. For the Examiner's convenience, support for the use of the relative ability of each transmission system to provide secure transmission may be found at page 1, line 26; page 2, line 9; page 2, line 19; page 3, line 5; page 3, lines 18-19; page 6, lines 24-25; page 7, line 11; and page 8, lines 2-5 of the original disclosure. Further, support for the use of time of day information as priority data may be found at page 11, lines 4-5 and page 11, lines 8-10 of the original disclosure.

In response to the Examiner's disapproval of Figure 2E, Applicant respectfully provides the following showing of the requisite support in the original disclosure. First, Figure 2E is a substantial duplication of original Figure 2B, except for boxes (154), (152), and (156). Thus, Applicant respectfully argues that the remaining portions of Figure 2E are clearly supported by original Figure 2B.

Box (154), labeled as "transmission system information", refers to data held upon the control processor describing any of the systems that may be available, ranging from land line telephone, cellular telephone, radio, internet, Ethernet, LAN, and other systems. Please see page 8, lines 23-25 of the original disclosure for an example of the requisite support for this portion of Figure 2E.

Box (156), labeled as "priority criteria", refers to operating parameters preprogrammed or manually entered by the user that may be utilized by the control processor to define the priority hierarchy. These parameters are mentioned throughout the specification, including page 8, lines 21-23 of the original disclosure. Further, the use of transmission system information in

combination with priority criteria, as defined in one embodiment above, is described repeatedly throughout the original specification as being utilized to define a priority hierarchy through which a given transmission system is chosen. For several examples, please see page 2, lines 17-21; page 3, lines 4-11; page 6, lines 3-11; page 6, lines 12-17; page 6, lines 21-27; page 7, lines 24-29; page 8, lines 1-5; page 8, lines 14-25; page 8, lines 30-31; page 11, lines 4-10; and page 11, lines 15-18 of the original disclosure.

In light of the above illustrated support, Applicant respectfully requests that the Examiner reconsider his disapproval of Figure 2E.

Regarding the objection to the amendment to the specification under 35 U.S.C. §132, Applicant respectfully offers the following showing of support for said amendment in the original disclosure.

First, the amendment on page 4, after line 17, is identical to page 4, line 13's language regarding Figure 2B (found in the original disclosure), except that it introduces Figure 2E and utilizes "the establishment of a priority hierarchy" terminology. As discussed above, the original disclosure provides numerous examples of the establishment of a priority hierarchy for use in choosing between various transmission systems. Please see above discussion of support for Figure 2E for specific citations to the original disclosure.

Second, support for the amendment to the specification on page 7, after line 3, may be found as follows:

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first paragraph of amendment: please see page 6, lines 3-4; page 6, line 5; page 8, lines 19-25; page 2, lines 6-9; and page 2, lines 20-21.

second paragraph of amendment: please see page 6, lines 5-11.

In response to the Examiner's rejection of claims 45-49, 56, 58, 61 and 64 under 35 U.S.C. §102(e), Applicant has amended independent claims 45 and 58 to distinguish the present invention from the cited reference.

REMARKS

Applicant has amended independent claims 45 and 58 to remove the language complained of by the Examiner and incorporate additional features of the invention. Applicant respectfully argues that independent claims 45 and 58, along with their accompanying dependent claims, are now allowable in light of the cited reference.

Applicant respectfully requests that this amendment/response be considered by the Examiner and a Notice of Allowance be entered.

If the Examiner feels that a telephone conference with the undersigned would be helpful to the allowance of this application, a telephone conference is respectfully requested.

Respectfully submitted,
JACKSON WALKER L.L.P.

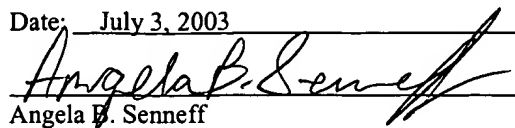


Richard R. Ruble, Reg. No. 45,720
112 E. Pecan Street, Suite 2100
San Antonio, Texas 78205
Phone: (713) 752-4200
Fax: (713) 752-4221
Attorneys for Applicant

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, via Express Mail #EV 323255744 US, in an envelope addressed to Mail Stop Response/FEE, Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: July 3, 2003


Angela B. Senneff